



Department of Defense INSTRUCTION

AD-A270 251



January 12, 1989
NUMBER 1404.12

ASD(FM&P)

SUBJECT: Employment of Spouses of Active Duty Military Members Stationed Worldwide

References: (a) Public Law 99-145, "DoD Authorization Act," November 8, 1985, Section 806, "Employment Opportunities for Military Spouses," as amended (10 U.S.C., Section 133 Note)
(b) Executive Order 12568, "Employment Opportunities for Military Spouses at Nonappropriated Fund Activities," October 2, 1986
(c) DoD Instruction 1400.23, "Employment of Family Members of U.S. Armed Forces Personnel and Civilian Employees Stationed in Foreign Areas," November 13, 1987 (hereby canceled)
(d) DoD Instruction 1404.11, "Employment of Spouses of Military Personnel Stationed in the 50 States, U.S. Territories and Possessions, and the District of Columbia," August 13, 1986 (hereby canceled)
(e) through (h), see enclosure 1

A. PURPOSE

1. This Instruction implements references (a) and (b) to establish policy, assign responsibilities, and prescribe procedures for improved employment opportunities for spouses of active duty military personnel stationed worldwide.
2. This Instruction supersedes references (c) and (d).

B. APPLICABILITY AND SCOPE

This Instruction:

1. Applies to the Office of the Secretary of Defense (OSD), the Military Departments, the Joint Staff, the Unified and Specified Commands, the Inspector General of the Department of Defense (IG, DoD), the Uniformed Services University of the Health Sciences (USUHS), and the Defense Agencies (hereafter referred to collectively as "DoD Components")
2. Provides worldwide employment preference for spouses of active duty military members of the U.S. Armed Forces applying and referred for certain appropriated fund positions in the excepted and competitive services in the DoD Components at grade level GS- or GM-15 and below, or equivalent wage system positions.

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3. Provides worldwide employment preference in the nonappropriated fund (NAF) personnel system for spouses of military members for NAF positions in all employment categories at grade level UA-8 and below and equivalent positions, and for positions paid at hourly rates.

4. Provides spouse employment preference reciprocally across DoD Component lines for positions in the same commuting area as that of the new duty station of the military sponsor.

5. Does not apply to the National Security Agency (NSA), the Defense Intelligence Agency (DIA), or to those other organizations in the DoD Components that have as a primary function intelligence, counterintelligence, or national security.

6. Does not apply to the employment of educators with the DoD Dependents Schools System. Spouse applicants for educator positions with this system shall be given preference in accordance with DoD Directive 1400.13 (reference (e)).

7. Does not apply to fill actions involving full performance level competitive service positions covered by mandatory mobility agreements.

8. Does not apply to fill actions when such actions would detract from ongoing equal opportunity programs; i.e., when programs for achievement of minority and gender equality, programs for persons with disabilities, or programs for affirmative employment of veterans, including disabled veterans, would be adversely affected.

9. Does not apply in situations involving statutory or regulatory entitlements; e.g., placement entitlements stemming from reemployment rights, grade retention rights, and rights conferred by court decisions.

10. Does not apply when preference, if afforded, would violate statutes or regulations on veterans' preference or nepotism.

11. Does not apply when preference, if afforded, would result in displacement of a current employee of the activity.

12. Does not apply when preference, if afforded, would prevent placement of a highly qualified overseas returnee registrant of the DoD Priority Placement Program or a registrant at program priority levels one or two.

13. Does not apply following placement of the spouse of a military member into any continuing DoD position at the new duty location; i.e., following entry on duty in a position expected to continue for at least 1 year in either the appropriated or NAF work force, whether or not preference was applied.

14. Does not apply to a permanent change of station move that is in conjunction with the retirement or separation of the military member.

C. DEFINITIONS

The terms used in this Instruction are defined in enclosure 2.

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D. POLICY

1. The following provisions apply worldwide in all spousal preference situations:

a. The time period of spouse preference eligibility begins 30 days before the military sponsor's reporting date into the new location and applies without time restriction except that spouses seeking preference with less than 6 months time remaining in the area may be nonselected for permanent continuing positions.

b. Spouse preference shall be applied equitably and reciprocally across DoD Component lines.

c. Heads of DoD Components may establish guidelines for approving exceptions to selections. Exceptions shall be rare and based only on compelling hardship to the DoD Component mission or the applicant.

2. For fill actions involving placement of spouses to appropriated fund positions located in the same commuting area as the member's permanent duty station in the 50 States, U.S. Territories and Possessions, and the District of Columbia, the following applies:

a. To the maximum extent practicable, spouse employment preference shall apply when filling competitive or excepted service positions at and below grade level GS or GM-15, including equivalent wage system positions. This includes placement into occupations formerly covered by the Professional and Administrative Career Examination (PACE) as designated by the Office of Personnel Management (OPM) within Chapter 213 of the Federal Personnel Manual (reference (f)). Also included are placements into positions filled by competitive merit promotion procedures; i.e., when a spouse is among the best qualified candidates in an open-competitive merit promotion action, the spouse shall be selected unless this would result in displacement of a current employee at the activity.

b. Whether or not referrals are made as provided in paragraph D.2.f., below, to the maximum extent practicable, spouses eligible for preference shall be included as part of minimal consideration areas in the competitive placement process. When referrals are not made as provided in paragraph D.2.f., below, spouse preference eligibles shall request certifying eligibility in writing and submit a request for such certification with a Standard Form (SF) 171 or other appropriate application form to the civilian personnel office for consideration. This application shall include the spouse's most recent Federal service performance rating. Spouse preference shall be limited to the specific position(s) for which applied.

c. Consistent with staffing standards published in reference (f), preference shall be applied unless the position is above the highest permanent grade previously held in Federal service, above the grade of a Federal position previously held for a period extending beyond 1 year on a temporary basis in the competitive or excepted service, or above the highest grade for which the spouse is eligible as certified on an employment register from an area office of the OPM.

d. Except when staffing positions in occupations formerly covered by the PACE, as designated in Chapter 213 of reference (f), preference shall not be applied in promotion-potential situations.

e. Spouse preference shall not apply when filling positions in which hiring limitations have been established if the fill action of the preference-eligible would cause a current employee of the organization to be changed to a lower grade or separated from Federal service.

f. Preference candidates immediately appointable to Federal competitive service positions shall be referred to positions for which available and qualified through automated referral procedures of the DoD Priority Placement Program in accordance with DoD 1400.20-1-M, (reference (g)). Included are current Federal employees, candidates with reinstatement eligibility, and candidates appointable under E.O. 12362, as amended (reference (h)). Candidates for excepted service positions and candidates referred from certificates issued by area offices of the OPM shall not be referred under such procedures.

g. The DoD Components shall establish procedures for verifying preference.

3. For appropriated fund fill actions in foreign areas, the following applies:

a. Spouses of U.S. Armed Forces personnel shall be given preference when filling vacancies competitively through either internal or external placement in all positions designated for U.S. citizen occupancy at grade level GS- or GM-15 and below (or equivalent) located in the same commuting area as the member's permanent duty station. To receive preference, the spouse must be in the area of consideration (competitive) and included among persons determined to be best qualified for the position. This preference shall apply only to initial employment into a continuing position, including temporary positions of 1 year or longer, at each duty location.

b. To expand employment opportunities for spouses, commanders shall, to the maximum extent possible, utilize foreign national positions for U.S. citizen occupancy as the positions become vacant for recruitment from outside the current foreign national work force, unless such employment is contrary to treaties or other international agreements. When qualified spouses are available to fill such positions, they shall be afforded preference, unless the commander determines it is essential to mission-effectiveness to use a local national in a specific position.

4. For NAF fill actions worldwide, the following applies:

a. Spouses eligible for preference shall be included as part of the minimum consideration areas in the competitive process. Spouse preference eligibles shall request eligibility in writing and submit a request using an SF 171 or other appropriate application form to the civilian personnel office for consideration. The application shall include the most recent Federal service performance rating. Spouse preference shall be limited to the specific position(s) for which applied. DoD Components shall establish procedures for verifying preference.

b. Eligible spouses shall receive preference for NAF jobs over veterans.

E. RESPONSIBILITIES

1. The Assistant Secretary of Defense (Force Management and Personnel) (ASD(FM&P)) shall establish and administer the policies and procedures in this Instruction to provide for enhancement of employment opportunities for spouses of military personnel stationed worldwide.

2. The Heads of DoD Components shall issue internal regulations to implement this Instruction.

F. PROCEDURES

1. The following procedures apply to appropriated fund fill actions in the 50 States, U.S. Territories and Possessions, and the District of Columbia:

a. In limited situations, a preference-eligible spouse without current civil service status and without eligibility under E.O. 12362 (reference (h)), may exercise spouse preference. If the name of the spouse is certified to an activity by an area office of the OPM, if the activity uses the register in the fill action, and if the spouse has notified the activity of his or her preference eligibility and is within "best qualified" in the range of selection, then preference is applicable. In making determinations in this context, current requirements on selection from OPM certificates shall be followed. Under these requirements, an available veteran may not be passed over to select a non-veteran nor may an available preference-eligible be passed over to select an individual who is without spouse or veterans' preference.

b. A preference-eligible spouse immediately appointable to Federal service, including a spouse appointable under E.O. 12362 (reference (h)), shall be placed on a selection list only if among the best qualified after a competitive screening process has been completed. At the discretion of the DoD Component, noncompetitive selections and placements may be made without application of spouse preference; e.g., reassignments, transfers, placements under reemployment priority list procedures, and placements under veteran readjustment authority procedures. When more than one spouse is being considered on spouse preference eligibility, selections may be made from spouse preference eligibles in any order. An eligible spouse shall be selected ahead of other applicants when preference procedures apply and when the spouse is best qualified for the position being filled or is within the best qualified grouping.

c. Spouse preference eligibility is terminated on placement into, or declination of, a continuing position at any grade level for which the eligible spouse has registered or applied for employment, whichever occurs first. Preference is also terminated on placement into any continuing position in the new duty location; i.e., one expected to continue for at least 1 year in either the appropriated or NAF work forces, whether or not preference was applied. Spouse preference may be exercised no more than one time per permanent relocation of the military sponsor.

2. The following procedures apply to appropriated fund fill actions in foreign areas:

a. Appointments of spouses who receive preference shall be Excepted Appointment or Excepted Appointment (Not to Exceed (NTE)) made under special Schedule A appointment authority in accordance with Chapter 213, Appointing Authority 3106(b)(6) (reference (f)). The exceptions may be those spouses eligible for transfer and those with personal competitive civil service status eligible for reinstatement, who may be given competitive appointments in accordance with Chapter 315 of reference (f). Employment under the Schedule A authority may not extend longer than 2 months following the transfer of the sponsor from the commuting area of his or her duty station, the separation of the appointee's sponsor, or beyond the time the employee ceases to be a spouse except in the event of the sponsor's death. Extensions of up to 1 year may be approved when the DoD Component concerned determines that additional employment is in management's interest. This authority shall be used very sparingly, and such extensions shall be approved by the director of civilian personnel of the DoD Component concerned or his or her designated representative.

b. Overseas commanders shall ensure that job information is provided in a manner reasonably designed to reach spouses of U.S. Armed Forces personnel whose permanent duty stations are in the same commuting area as the area where the positions are located.

c. Spouses may file applications for employment with overseas civilian personnel offices 30 days before their anticipated arrival within the command. However, spouses may not receive preference until actually arriving at the overseas location.

d. The appointment of spouses under this Instruction is subject to the regulations and restrictions on employment of relatives under Chapter 310 of reference (f).

e. When spouse preference employment is authorized for foreign national positions, such employment shall be under the special Schedule A authority only. Spouses in these positions may be subject to separation or reassignment therefrom, if the position is required for the placement of a current foreign national employee through reduction-in-force (RIF) procedures. Veterans' preference does not apply to positions designated for foreign national occupancy. Spouses who are not U.S. citizens shall be given equal consideration with U.S. citizen spouses for foreign national vacancies except when doing so would conflict with host-nation law or agreements with the host nation.

3. The following procedures apply to NAF fill actions worldwide:

a. A preference-eligible spouse shall be placed on a selection list if among the best qualified candidates after a competitive screening process is completed. Preference applies when the grade level for which the spouse has applied is no higher than that previously held in Federal service.

b. A preference-eligible spouse shall be given preference over a non-preference spouse.

c. Spouse preference eligibility is terminated on placement into, or declination of, a continuing position at any grade level for which the spouse has registered for employment, whichever occurs first. Preference shall be terminated on placement into any continuing position in the new duty location; i.e., one expected to continue for at least 1 year in either the appropriated

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or NAF work forces, whether or not preference was applied. Spouse preference may be exercised no more than one time per permanent relocation of the military sponsor.

G. INFORMATION REQUIREMENTS

1. The reporting requirements in this Instruction have been assigned Report Control Symbol DD - FM&P (Q) 1809.

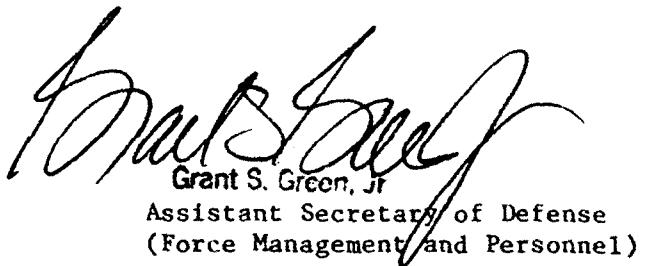
2. No later than January 15, April 15, July 15, and October 15 of each year, the heads of the DoD Components shall forward a copy of SF 50s, or summaries in lieu thereof, documenting placements of spousal preference-eligibles during the preceding quarter to the ASD(FM&P). Summaries should identify the employee's social security number, occupational series, and grade. The summary should also include the appointment date and both the organizational and geographic location of the position.

H. EFFECTIVE DATE AND IMPLEMENTATION

This Instruction is effective immediately. Forward two copies of implementing documents to the Assistant Secretary of Defense (Force Management and Personnel) within 120 days.

Enclosures - 2

1. References
2. Definitions



Grant S. Green, Jr.
Assistant Secretary of Defense
(Force Management and Personnel)

REFERENCES, (Cont.)

- (e) DoD Directive 1400.13, "Salaries and Personnel Practices Applicable to Teachers and Other Employees of the DoD Overseas Dependents Schools System," July 8, 1976
- (f) Federal Personnel Manual, Chapters 213, 310, 315, and 335
- (g) DoD 1400.20-1-M, "DoD Program for Stability of Civilian Employment," April 1988, authorized by DoD Directive 1400.20, June 16, 1981
- (h) Executive Order 12362, as amended, "Overseas Employment," May 12, 1982

DEFINITIONS

1. Geographical Area of Spouse Preference. Spouse preference-eligibles shall be given preference in the same commuting area as that of the new duty station of the military sponsor. The commuting area for spouse preference includes the military sponsor's duty station and the surrounding localities to which the spouse has determined he or she is willing to travel back and forth daily for employment, as demonstrated through acceptance of, or application for, employment, with or without a request for preference.
2. Spouse Preference Eligible. The wife or husband of an active duty military member of the Armed Forces, including a member of the U.S. Coast Guard, relocating because of service under a statutory tour. Eligibility for preference does not extend to the spouse unless the marriage took place prior to the sponsor and the spouse relocating to the new duty station area. To be eligible for preference, the eligible spouse must meet preference program eligibility criteria and be appointable from an employment register from the OPM or be otherwise immediately appointable to Federal service; e.g., possess eligibility for appointability to occupations covered by the PACE, as defined in Chapter 213 of reference (f), be a current Federal employee or possess reinstatement eligibility or eligibility under E.O. 12362 (reference (h)); and meet all preemployment criteria; i.e., suitability and citizenship.
3. Spouse Preference Position. An appropriated fund position vacancy in the competitive or excepted service in the DoD Components at grade level GS- or GM-15 and below, or equivalent wage system positions, in the 50 States, U.S. Possessions and Territories, District of Columbia, and foreign areas when open competition is being used. Also, a NAF position vacancy in the DoD Components worldwide at grade level UA-8 and below and equivalent positions, and for positions paid at hourly rates when open competition is approved; i.e., when a candidate search through open recruitment action is approved.